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FILED

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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9
10 IN THE UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 AT SAN FRANCISCO

EDL

13 MARK RUSSO, RUSSELL ROBINETTE,
14 NEXT SEAFOOD COMPANY, INC.
15 RON ALIOTTI and others similarly
16 Situated;

17 Plaintiffs,
18 M/T DUBAI STAR, *In Rem*, SOUTH
19 HARMONY SHIPPING, INC.
A foreign corporation; PIONEER SHIP
MANAGEMENT SERVICES, a foreign
corporation; HEIDMAR, INC. A
Connecticut Corporation

v.

20 Defendants.

NO. 09

5158

21 COMPLAINT FOR LOSS OF FISHING
22 PROFITS AND RELATED FISH
23 PROCESSING PROFITS

CLASS ACTION COMPLAINT

JURISDICTION AND VENUE

24 Venue is appropriate in this Court as the acts and omissions occurred within the
25 Northern District of California, to wit: San Francisco Bay.

26 This is an Admiralty and Maritime Claim within this Court Admiralty Jurisdiction

27 28 USC § 1331 and F.R.C.P Rule 9 (h)... Jurisdiction arises in the Court pursuant to

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1 F.R.C.P Rule 23. Class Action status pursuant to FRCP 23 is appropriate, as the class of
2 plaintiffs is numerous and joinder of all plaintiffs would impracticable and their exits
3 questions of law and fact which are common to the class. The representative plaintiffs
4 and their claims are typical of the claims of the class. The representative plaintiffs will
5 fairly and adequately represent the interests of the class.

7 **PARTIES**

8 1.1 MARK RUSSO is a commercial crab fisherman who traditionally fishes crab
9 near San Francisco Bay and owns and operates the F/V Freeland, RUSSELL
10 ROBINETTE is a commercial crab fisherman that owns and operates the F/V Smeagol
11 and traditionally fishes in and around San Francisco Bay. NEXT SEAFOOD
12 COMPANY, INC. is a seafood processing company that traditionally processes seafood
13 harvested from and or near San Francisco Bay. RON ALIOTI is herring fisherman who
14 traditionally fishes in San Francisco Bay for herring. On or about August 30, 2009, the
15 M/T DUBAI STAR spilled oil into San Francisco Bay, upon information and belief
16 causing environmental damage to the commercial fishing grounds and estuaries to those
17 fishing grounds. Such oil spill has upon information and belief caused or will cause a
18 diminution to the crab, herring and seafood catch available to both fisherman and
19 seafood processors. The aforementioned fisherman and seafood processor are
20 representative of all other fisherman and seafood processors for Class Action purpose.

21 1.2 M/T DUBAI STAR is a vessel licensed and or flagged out of Panama.

22 1.3 SOUTH HARMONY SHIPPING, INC. upon information and belief is a
23 corporation licensed and operating out of Panama with a principle place of

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1 business in India. Upon information and belief PIONEER SHIP
2 MANAGEMENT SERVICES, INC. is an entity that is licensed to do business in the
3 State of California and serves as the Ships Agent for local transactions concerning the
4 M/T DUBAI STAR. HEIDMAR, INC. upon information and belief is also an operator
5 of the vessel who at materials times hereto was in operation, navigation and control of the
6 vessel Dubai Star.

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10 **WRONGFUL CONDUCT**

11 2.1 Upon information and belief defendants and or their agents were negligent
12 and spilled toxic diesel fuel and or bunker fuel into San Francisco Bay while taking on
13 fuel. This oil spill was in violation of safe operating procedures which are mandatory for
14 all vessels and fuel suppliers to follow while transferring fuel from lighter ship or shore
15 facility onto a vessel on navigable waters. Defendants are a responsible party under the
16 Oil Pollution Act of 1990 and California's equivalent law the Lambert-Keene Act.
17 Defendants, their agents, operators and managers are strictly liable to plaintiffs for all
18 losses of income and property damage, that are proximately caused by the wrongful
19 conduct of defendant.

20

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22 **DAMAGES**

23 3.1 Defendants are liable for all damages proximately caused by the spillage of
24 oil into San Francisco Bay, including but not limited to cleanup costs, loss of fishing
25 profits, loss of revenue due to affection of the oil spill to the price that crab and other
26 seafood would have sold for in the market place, but for the oil spill.

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3.1 All other damages cognizable in Admiralty and under the laws of the State of California, including punitive damages.

PROXIMATE CAUSE

4.1 Defendants wrongful conduct has upon information and belief proximately caused damages to plaintiffs. The class of plaintiffs covered within Oil Spill Pollution precedence includes both "oiled" and "unoiled fishers", who's livelihood has been negatively impacted as a result of the spillage of oil by the Dubai Star and others acting in concert with them.

PRAYER FOR RELIEF

5.1 Plaintiff's pray for the following relief:

A. General damages in an amount to be proven at the time of trial, believed to be in excess of \$10,000,000 (ten million dollars).

B. Special damages in an amount to be proven at the time of trial.

C.. Punitive damages in an amount to be proven at the time of trial.

D. Costs of cleanup damages in an amount to be proven at the time of trial.

E. All other relief this court deems equitable in the premises.

Dated this 30th day of October, 2009.-

Anthony M. UKIE
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Attorney for Plaintiffs and others
similarly situated